IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1328 OF 2000

1. Saudagar Asif Abdulgani
Nurani Building, 2nd Floor,
Room No.210, Mumbra Devi Rd.,
Opp.Patel High School,
Mumbra, Dist.Thane.

2. Satish Anandrao Patil
At & Post Patil Nagar, Atali
Opp.Samarth Kripa Bldg.,
Ambivali, Tal. Kalyan,
Dist. Thane

3. Shyam Raghunath Kaser,
At & Post.Mohane, Tal.Kalyan
Dist.Thane.

4. Nitin Ramesh Kunwar,
Nr.Jay Santoshi Mata Kirana
Store, Vijay Nagar, Mohane
Dist.Thane. .. Petitioners.

V/s.

1. Magasvargiya Sudharana Hit
Sanstha, Through the Chairman

2. Annabhau Sathe Prathamik Shala
Lahuji Nagar, Behind Mohane
Police Chowki, Mohane,
Tal.Kalyan, Dist.Thane.

3. Administrative Officer, Kalyan
Dombivli Municipal School Board,

4. The Dy.Director of Education,
Nasik Region, Nasik.

5. The State of Maharashtra .. Respondents.

Mr.R.S.Apte for the Petitioners.

Mr.V.A.Sonpal, AGP for the Respondents Nos. 4 and 5.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.

DATED : 20th JUNE, 2007.

JUDGMENT :- (Per R.M.Savant,J)

. This petition filed under Article 226 of the Constitution of India, seeks a direction, interalia, to the effect that the Respondents be directed to pay the salary and arrears thereof to the petitioners as per the Rules and give them all the consequential benefits including increments etc.. The petitioners are also seeking direction for payment of interest in respect of the arrears of salary till realisation.

2. The brief facts involved in the present petition are that the petitioners were appointed in the Respondent No.2 School as teachers. The petitioners Nos. 1 and 2 were appointed in the year 1994 and the petitioners Nos. 3 and 4 were appointed in the year 1996. The said school on account of the dispute amongst the members of the management of the respondent No.1-Trust, which ran the respondent No.2 school, was not being run properly in as much as there were insufficient class rooms as well as class rooms that were available were not in fact maintained properly.

The said school was receiving grants to the extent of 10% from the respondent No. 4 through the respondent No.3-Administrative Officer. The said school was a private school and the owner of the said school was one Devendra Bhikaji Shinde, who sold the said school to one Ram Sayajirao Veer. Thereafter, the disputes arose between said persons as regards the sale amount which resulted in proceedings being filed before the Charity Commissioner. The conditions of the service of the teachers in the said school were governed by the provisions of Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the Rules of 1981 framed thereunder. Rule 7 of the said Rule, interalia, provides that the school and pay of the teachers shall be as specified in Schedule ‘C’. It is the case of the petitioners that the respondent No.1 was not paying any salary to the petitioners for several months prior to filing of the above petition. The petitioners have, therefore, filed the above petition for their salary and arrears thereof. The petitioners on account of the said non-payment were also constrained to enter into correspondence with the respondent No.1 and respondent No.3 Education Officer, inviting their attention to their plight. Inspite of such written and oral grievance made on several occasions, it is the case of the petitioners that no heed was taken of the said

grievances by the authorities. It is the case of the petitioners that they are working since 1994-1996 and were therefore, permanent employees of the said school in terms of the provisions of the said Act and the Rules. In any event, according to the petitioners they were entitled to the salary from the respondents for the work discharged by them. As indicated above, the petitioners having not received any response were constrained to file the instant petition.

3. The contesting respondents have been served and inspite of service, none appears for the said contesting respondents. Shri V.A. Sonpal appears for the respondents Nos. 4 and 5. Since according to the petitioners they have worked as teachers from the year 1994-96 and have not been paid their salary and arrears and since the respondents have not controverted the said position we are left with no alternative but to make the rule absolute in the above petition, by issuing the following directions :

i. The petitioners would be entitled to be paid their salary, with arrears from the date of their appointments, if not already paid.

ii. The said amount, if payable, to be paid

to the petitioners by the concerned respondents within three months from date.

Rule is accordingly made absolute in the above terms with no order as to costs.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)

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